

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)	
License to Conduct Gambling Activities of:)	NO. CR 2010-00621
)	
Nicholas Molthen)	FINDINGS OF FACT,
Tukwila, Washington,)	CONCLUSIONS OF LAW,
)	AND ORDER OF SUMMARY
)	SUSPENSION OF LICENSE
Licensee.)	

RCW 9.46.070(17) authorizes the Washington State Gambling Commission (Commission) to summarily suspend¹ a license, subject to final action by the Commission. The Director has reviewed this Order of Summary Suspension and has issued it for service.

This order takes effect when served on the licensee, representative, or agent. A Commission Special Agent shall seize Nicholas Molthen's license and he must stop conducting gambling activities.

FINDINGS OF FACT

I.

Rick Day is Director of the Washington State Gambling Commission and issues this order. Jurisdiction of this proceeding is based on chapter 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and Title 230 WAC.

II.

The Washington State Gambling Commission issued Nicholas Molthen the following license:

Number 68-28965, Authorizing Card Room Employee Activity, at Hooters of Renton and Hooters of South Park.

The Commission issued this license, which expires on January 28, 2010, subject to the licensee's compliance with state gambling laws and Commission rules.

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¹ WAC 230-17-165 defines summary suspension as immediately taking a license or permit from a person or organization which prevents them from operating or conducting gambling activities.

III.

After a thorough review of the report by a Commission Special Agent about the facts in this matter, the Director accepts the report as true and has determined that the summary suspension is necessary.

IV.

SUMMARY:

On or about May 17, 2010, Nicholas Molthen, while at the Great American Casino in Tukwila, went to the cage cashier and demanded that she give him twenty and hundred dollar bills or he was going to kill her. Mr. Molthen had his hand in his coat pocket to imitate a gun. He grabbed approximately \$2,500 in cash from the cage cashier's hands and ran out of the card room.

FACTS:

- 1) On or about May 17, 2010, around 12:26 a.m., Nicholas Molthen entered the Great American Casino in Tukwila and went to the cage cashier (cashier). Mr. Molthen handed the cage cashier a plastic bag and demanded that she give him "twenties and hundreds." Mr. Molthen had his hand in his coat pocket to imitate a gun and several times told the cage cashier that he was going to kill her. Mr. Molthen grabbed cash out of the cage cashier's hands and ran out of the card room.
- 2) After the incident, the cashier saw the surveillance video of the robbery and identified the man who took the money. A Commission Special Agent (agent) later identified the man as Nicholas Molthen. Great American Casino employees determined that Mr. Molthen took approximately \$2,500 in cash.
- 3) A Commission Special Agent (agent) obtained surveillance video from Great American Casino that shows Nicholas Molthen taking money from the cage cashier.
- 4) On May 17, 2010, at approximately 11:42 a.m., the Casino Manager of Hooters of South Park contacted the agent and told him that Jeremy Clifton, shift manager at Hooters of South Park, had met and talked with Mr. Molthen earlier that day. On May 17, 2010, around 1:30 a.m. Mr. Clifton met Mr. Molthen at Hooters of South Park. Mr. Molthen appeared to be under the influence of drugs or alcohol, so Mr. Clifton drove Mr. Molthen home. Once at Mr. Molthen's house, Mr. Molthen told Mr. Clifton "he just robbed a store, threatened the person with a gun, but didn't have one."

CONCLUSIONS OF LAW

I.

- 1) **RCW 9.46.070** provides that the Commission shall have the following powers and duties: The Commission may authorize the Director to temporarily suspend licenses subject to final action by the Commission.

2) **WAC 230-17-165(2)** provides that the Commission delegates its authority to the Director to summarily suspend any license if the Director determines that a licensee has performed one or more of the actions identified in RCW 9.46.075 as posing a threat to public health, safety, or welfare.

3) **WAC 230-17-165(3)(a)** provides that the Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare: Failing or refusing to comply with the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW or any rules adopted by the Commission.

On or about May 17, 2010, Nicholas Molthen, while at the Great American Casino in Tukwila, went to the cage cashier and demanded that she give him twenties and hundreds or he was going to kill her. Mr. Molthen had his hand in his coat pocket to imitate a gun. Mr. Molthen grabbed approximately \$2,500 in cash out of the cage cashier's hands and ran out of the card room.

The licensee's actions constitute an immediate danger to public safety and welfare and create probable cause to believe that his participation in gambling would be inimical to the proper operation of gambling based on WAC 230-17-165(2) and WAC 230-17-165(3)(a) and are a basis for Nicholas Molthen to immediately stop conducting gambling activities.

4) **RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit**

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein.

(The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter;

5) **WAC 230-03-085 Denying, suspending, or revoking an application, license or permit**

(The following subsections apply.)

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

6) RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

On or about May 17, 2010, Nicholas Molthen, while at the Great American Casino in Tukwila, went to the cage cashier and demanded that she give him "twenties and hundreds" or he was going to kill her. Mr. Molthen had his hand in his coat pocket to imitate a gun. Mr. Molthen grabbed approximately \$2,500 in cash out of the cage cashier's hands and ran out of the card room.

Mr. Molthen poses a threat to the effective regulation of gaming, or increases the likelihood of unfair or illegal practices as demonstrated by his threatening a cage cashier and taking approximately \$2,500 in cash from Great American Casino.

Nicholas Molthen has also failed to establish clearly and convincingly, as required by RCW 9.46.153(1), that he is qualified to be licensed. As a result, there are grounds to revoke Nicholas Molthen's license based on RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (8).

II.

Nicholas Molthen's actions are an immediate danger to public safety and welfare, and the licensee has failed to comply with chapter 9.46 RCW or Commission rules. The immediate suspension of Nicholas Molthen's gambling activity is required to protect public safety and welfare.

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the Director's authority under RCW 34.05.422, RCW 9.46.070(17), and WAC 230-17-165, the Director orders that Nicholas Molthen's license is summarily suspended, pending a formal hearing by an Administrative Law Judge.

STATEMENT OF RIGHTS

(1) **You may ask for a stay of this Order.** To do so, you must complete and return to the Commission the enclosed Application for Stay Hearing form within fifteen (15) days from the date you receive this Order. If the Commission receives a timely request, we will hold a hearing within seven (7) days as required by WAC 230-17-170(3). The stay hearing will determine if your suspension should continue, or whether the suspension may be modified.

At the stay hearing, you will have to prove by clear and convincing evidence that:

- (a) You will likely win at hearing; and
- (b) If your suspension continues, you will suffer serious injury. Under this section, loss of income from licensed activities is not considered serious injury; and
- (c) Removing the immediate suspension will not hurt others in this case; and


(d) The threat to the public safety or welfare does not justify continuing the suspension, or that modifying the suspension will adequately protect the public.

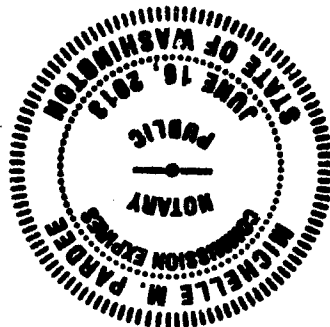
(2) **You also have a right to a hearing on the revocation of your license.** To do so, you must complete and return to the Commission the enclosed Application for Hearing form within twenty (20) days from the date you receive this order. If you do NOT request a hearing, we will enter an Order of Default revoking your license under RCW 34.05.440.

If you have any questions regarding the rights stated above, please contact Michelle Pardee, Paralegal, at (360) 486-3465 or 1-800-345-2529, extension 3465.

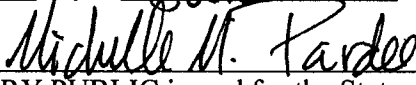
STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, under oath, declares that he has read this Order of Summary Suspension of License, knows its contents, and believes it to be true, and affirms that he is the Director of the Washington State Gambling Commission and in that capacity has executed this Order of Summary Suspension of the License.


Rick Day, Director



SUBSCRIBED AND SWORN TO before me
this 17 day of June, 2010.


NOTARY PUBLIC in and for the State of
Washington, residing at:

LACEY
My Commission expires on
June 16, 2013